



12-17-03

GAU-1652\$

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DEC 22 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Daniel S. Smith

Serial No.: 10/059,447

Group Art Unit: 1652

Filed: 01/29/02

Examiner: RAO, Manjunath N.

For: α -N-ACETYLGALACTOSAMINIDASE
FROM CLOSTRIDIUM PERFRINGENS

Attorney Docket No: 0994.00134

TECH CENTER 1600/2900

RESPONSE

Commissioner for Patents
Mail Stop Fee Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action dated July 15, 2003, Paper Number 7. Applicant hereby petitions for a four-month extension of time within which to respond to the outstanding Office Action. Granting the petition would extend the time for filing the Response to December 15, 2003. The appropriate petition fee of \$740.00 is enclosed herewith.

Restriction to one of the following Groups was required under 35 USC §121:

- I. Claims 1-4 and 9, drawn to polypeptides and a method of its use, classified in class 435, subclass 183.
- II. Claims 5-6, drawn to a method of removing neuramidase, classified in class 435, subclass 43.
- III. Claims 7-8, drawn to a process of altering erythrocytes, classified in class 435, subclass 4.

IV. Claim 10, drawn to an antibody, classified in class 530, subclass 387.1.

V. Claims 11-12, drawn to a process of altering cells, classified in class 435, subclass 325.

Applicant provisionally elects Group I, claims 1-4 and 9 for prosecution purposes, with traverse. Applicant hereby conditionally withdraws claims 5-8, and 10-12 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicant traverses the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. All of the groups of claims relate to polypeptides and methods of acquiring the same and thus should be prosecuted in a single application. Further, Groups I-II and V are all classified in class 435. Since there is a great amount of cross-classification amongst the sub-classes in this class, it is respectfully submitted that examination of all of the claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice. Hence, it is respectfully submitted that restriction should not be required and that Applicant has traversed the restriction requirement. However, as stated above, Applicant has elected the claims of Group I and provisionally withdraws claims 5-8, and 10-12, without prejudice, pending reconsideration of the restriction requirement.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

U.S.S.N. Number: 10/059,447

The application is now in condition for allowance, which allowance is respectfully solicited.



Respectfully submitted,

KOHN & ASSOCIATES, PLLC

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Dated: December 15, 2003

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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Date of Deposit: December 15, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop: Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Connie Herty